IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 11373 of 2005

Between:

Tenali Karnudu S/o. Moshe @ Koteswara Rao
R/o. Ameenapuram Village, Pamidimukkala Mandal,

Krishna District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Pamidimukkala, Krishna District.
2 The Revenue Divisional Officer, Nuzvid , Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the impugned proceedings of the 2nd respondent RDO, Nuzvid issued through Rc.No. A.715/2005 dt. 9-5-2005 as illegal arbitrary, unconstitutional and against to the principles of natural justice and to pass such other and further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.B.CHINNAPA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

The petitioner is a Fair Price Shop dealer of Ameenapuram Village in Krishna District. His authorization was suspended, pending further enquiry, by the second respondent after considering the report submitted by the first respondent to the effect that the petitioner involved in a dispute, which resulted in an adverse law and order situation and that a crime, being Crime No.38 of 2005, under Sections 324 and 34 of the Indian Penal Code, 1860, was registered against him. The Mandal Revenue Officer also reported that the petitioner was arrested and was in police custody. Assailing the said order, the present writ petition is filed.

This Court while admitting the writ petition suspended the impugned order for a period of six weeks. The respondents have now come forward with an application, being W.V.M.P.No.1478 of 2005, for vacating the interim order. The matter itself was heard, as a short question is involved in the case.

The learned counsel for the petitioner, Sri.B.Chinnapa Reddy, submits that as per Clause 8 of the A.P. Scheduled Commodities Dealers' (Licensing and Distribution) Order, 1982 (hereinafter called 'the 1982 Control Order') unless a notice proceeds, the second respondent cannot suspend the authorization of a fair price shop dealer. According to the learned counsel, the conditionality mentioned in Clause 8(2) of the 1982 Control Order have to be read into A.P.State Public Distribution System Control Order, 2001 (hereinafter called 'the 2001 Control Order'). The learned counsel, however, does not dispute that under Clause 5(4) of the 2001 Control Order, no such notice is required to be given by the competent authority for suspending the authorization pending enquiry.

After carefully considering the two Control Orders, I am convinced that this Court cannot countenance the submissions of the learned counsel for the petitioner that any suspension under Clause 5(4) of the 2001 Control Order must satisfy Clause 8 of the 1982 Control Order. 2001 Control Order in pith and substance deals with the public distribution of essential commodities through fair price shops. It is a comprehensive order, which enables the appointing authority, the second respondent herein, to suspend or cancel the authorization. When the authorization suspended pending enquiry, it is in the nature of interim suspension and it is well settled that an appointing authority who is also vested with disciplined powers is

always vested with the power to suspend when enquiry is pending. Therefore, this Court does not find any merit in the arguments. However, the learned counsel for the petitioner seeks to avail the remedy under Clause 20 of the 2001 Control Order. In view of the interpretation of this Court, such an appeal would be futile. Instead of that it would be in the interest of justice to direct the Revenue Divisional Officer to complete the enquiry within a period of six weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations, is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

20.06.2005

VS

To

1 The Mandal Revenue Officer, Pamidimukkala, Krishna District.
2 The Revenue Divisional Officer, Nuzvid , Krishna District.

3 Two CCs to the G.P for Civil Supplies, High Court of A.P.,

Hyderabad(O.U.T).

4 2 CD copies